The Software Alliance

BSA

Priorities in Digital Trade

The United States should work together with allies to agree on digital trade rules that can create economic opportunities at home; boost US jobs and innovation; and support an open, inclusive, and secure international digital ecosystem. BSA's Digital Trade Agenda details our recommendations.

Digital trade policy is critical to the software industry—one of the most competitive US export sectors—but is also important to other sectors, including the 290,000 small business exporters (composing 98 percent of all US exporters) that depend on cross-border digital tools to reach foreign markets. Digital trade already contributes trillions of dollars to global GDP, with sectors like agriculture, manufacturing, and logistics capturing 75 percent of the economic gains. With more than half of US employees working remotely in the COVID-19 era, digital trade is critical to the US economy.

Unfortunately, many foreign trading partners are turning to digitally protectionist measures, impairing US firms' ability to export and compete. To combat this trend, the incoming Administration should implement a robust US digital trade policy that plays to US strengths. The policy should include:

Prohibit Digital Trade Barriers

☑ **No Data Localization Requirements and Cross-Border Data Transfer Restrictions.** Governments should not impose data localization requirements or restrict cross-border data transfers as a market access barrier and should promote interoperable frameworks to facilitate data transfers.

☑ **No Customs Requirements on Electronic Transmissions.** Governments should not impose customs requirements on software or data transmitted electronically.

☑ **No Discriminatory Taxes on Software or Cloud Services.** Governments should not impose discriminatory taxes that harm foreign cloud and software providers, while benefiting local competitors.

☑ **No Forced Technology Transfer.** Governments should not require or pressure companies to transfer or disclose their technology—such as source code or trade secrets, including algorithms—as a condition for market access.

☑ **No Digital Technical Barriers to Trade.** Governments should support voluntary, internationally recognized standards, and refrain from imposing conflicting national standards on market participants.

Ensure Privacy, Security, and Governmental Transparency and Accountability

☑ **Support for Privacy.** Governments should adopt legal frameworks that protect personal information without allowing for unnecessary or disguised restrictions on trade.

☑ **Protecting Security through Encryption.** Governments should not undermine encryption in commercial products, including through the imposition of restrictions on security technologies used to safeguard against intrusions.

☑ **Protecting the Information Technology Supply Chain.** Governments and companies should increase their readiness to mitigate cyber- and supply chain security threats, including through cyber- and supply chain risk management and vulnerability disclosure processes that are based on internationally recognized standards.

☑ **Fair and Transparent Requests for Access to Data.** Governments should ensure that law enforcement requests to access information are procedurally fair and transparent and include mechanisms for resolving differing legal requirements between jurisdictions.

Safeguard Innovation

☑ **Machine Learning and Data Analytics.** Governments should ensure that commercial data analytics in the machine learning context is permitted.

☑ **Open Government Data.** Governments should commit to making non-sensitive government-generated data freely available to the public, on a non-discriminatory basis, and in machine-readable formats.

☑ **Copyrights.** Governments should ensure that copyright rules are aligned with international standards, including appropriate exceptions and limitations such as safe harbors for online service providers that expeditiously remove infringing content upon receiving notification from a rightsholder.

☑ **Patents and Trade Secrets.** Governments should provide for nondiscriminatory software patent protection and should protect trade secrets under civil and criminal law.

☑ **Technology in Government.** Governments should promote the use of innovative technology in public sector operations and in government procurement.

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ABOUT BSA

BSA | The Software Alliance is the leading advocate for the global software industry before governments and in the international marketplace. Its members are among the world's most innovative companies, creating software solutions that spark the economy and improve modern life.

With headquarters in Washington, DC, and operations in more than 30 countries, BSA pioneers compliance programs that promote legal software use and advocates for public policies that foster technology innovation and drive growth in the digital economy.

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